

**UNITED STATES DISTRICT COURT
OF THE SOUTHERN DISTRICT OF NEW YORK**

**IN RE: GENERAL MOTORS, LLC
IGNITION SWITCH LITIGATION**

MDL No. 14-MD-2543(JMF)

This applies to:

SANDRA KUCH

Plaintiff,

-against-

GENERAL MOTORS, LLC

Defendant.

Case No. 1:18-cv-7901

**UNOPPOSED MOTION TO SUBSTITUTE PROPER PARTY WITH
MEMORANDUM OF LAW IN SUPPORT**

Randall Kuch, Administrator of the Estate of Sandra Kuch, files this Motion to Substitute Proper Party and shows the Court:

1. Pursuant to Federal Rule of Civil Procedure 25(a)(1), “If a party dies and the claim is not extinguished, the court may order substitution of the proper party.”
2. “A motion for substitution may be made by any party or by the decedent's successor or representative.” *Id.*
3. It is well-established that a decedent's legal representative may substitute as plaintiff for the decedent in a cause of action. *Sharp v. Ally Fin., Inc.*, 328 F. Supp. 3d 81, 103 (W.D.N.Y. 2018); *Roe v. City of New York*, No. 00 CIV.9062 (RWS), 2003 WL 22715832, at *2 (S.D.N.Y. Nov. 19, 2003) (“A ‘proper party’ for substitution under Rule 25(a)(1) is ‘either (1) a successor of the deceased party—a distributee of an estate if the

estate of the deceased has been distributed at the time the motion for substitution has been made, or (2) a representative of the deceased party—a person lawfully designated by state authority to represent the deceased's estate.” (citation omitted)).

4. This Court has previously been informed of the death of Plaintiff Sandra Kuch, which occurred on or about December 13, 2019. (Doc. 50).

5. In diversity cases, since *Erie R. Co. v. Tompkins*, 304 U.S. 64 (1938), the law of the state governs the remedies. *Cinnamon v. Abner A. Wolf, Inc.*, 215 F. Supp. 833, 834 (E.D. Mich. 1963). Ms. Sandra Kuch was at all relevant times a citizen and resident of the state of Arizona, and her motor vehicle accident occurred in Arizona. (Doc. 1, p. 1). Defendant General Motors, LLC is a citizen and resident of the states of Michigan and Delaware. *Id.*

6. Under Arizona, Michigan, and Delaware law, Plaintiff Sandra Kuch’s injury claim survived her death and can be maintained by her personal representative. *See* Ariz. Rev. Stat. Ann. § 14-3110; Mich. Comp. Laws Ann. § 600.2921 (West) (“All actions and claims survive death”); Mich. Comp. Laws Ann. § 600.2922 (West); Del. Code Ann. tit. 10, § 3701 (West).

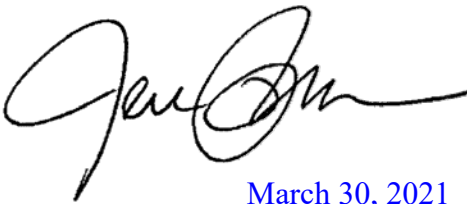
7. Randall Kuch was appointed as Personal Representative of the Estate of Sandra Kuch on or about January 12, 2021. *See* Letters of Personal Representative attached as Exhibit A.

8. Thus, in accordance with Arizona, Michigan, and Delaware law, and pursuant to Federal Rule of Civil Procedure 25, Randall Kuch, as Administrator of the Estate of Sandra Kuch, should be substituted as the proper party for the decedent Plaintiff.

9. The undersigned counsel conferred with Defendant's counsel, and Defendant is not opposed to this Motion.

WHEREFORE, Randall Kuch requests the Court substitute Randall Kuch, as Administrator of the Estate of Sandra Kuch, for decedent Plaintiff in this case.

Application GRANTED. The Clerk of Court is directed to update the docket accordingly, and to terminate 18-CV-7901, ECF No. 51. SO ORDERED.



March 30, 2021

Respectfully submitted,

/s/ Brett A. Emison
Brett A. Emison
Langdon & Emison, LLC
911 Main Street
Lexington, MO 64067
Ph: 660-259-6175
Tax: 660-259-4571
brett@lelaw.com
Counsel for Plaintiffs